

## Commodity Futures Trading Commission

## § 145.9

(5) If the appeal involves information that is subject to a petition for confidential treatment filed under §145.9, the submitter of the information shall have an opportunity to respond in writing to the appeal within 10 business days of the date of filing of the appeal. Any response shall be sent to the Commission's Office of General Counsel. Copies shall be sent to the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance and to the person requesting the information.

(6) The General Counsel, or his or her designee, shall have the authority to consider all appeals under this section from initial determinations of the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance. The General Counsel may:

(i) Determine either to affirm or to reverse the initial determination in whole or in part;

(ii) Determine to disclose a record, even if exempt, if good cause for doing so either is shown by the application or otherwise appears;

(iii) Remand the matter to the Assistant Secretary (A) to correct a deficiency in the initial processing of the request, or (B) when an investigation as to which the staff originally claimed exemption from mandatory disclosure on the basis of 5 U.S.C. 555(b)(7)(A) or 7 U.S.C. 12(a) is subsequently closed; or;

(iv) Refer the matter to the Commission for a decision.

(7) If the initial denial of the request for nonpublic records is reversed, the Office of General Counsel shall, in writing, advise the requester that the records will be available on or after a specified date. If, on appeal, the denial of access to a record is affirmed in whole or in part, the person who requested the information shall be notified in writing of (1) the reasons for the denial and (2) the provisions of 5 U.S.C. 552(a)(4) providing for judicial review of a determination to withhold records.

(j) *Expedited processing.* A request may be given expedited processing if the requester demonstrates a compelling need for the requested records. For purposes of this provision, the term "compelling need" means: That a failure to obtain requested records on an expedited basis could reasonably be ex-

pected to pose an imminent threat to the life or physical safety of an individual; or with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged federal government activity. A requester who seeks expedited processing must demonstrate a compelling need by submitting a statement that is certified by the requester to be true and correct to the best of that person's knowledge and belief. The Assistant Secretary, or his or her designee, will determine whether to provide expedited processing, and notice of the determination will be provided to the requester, within ten days after the date of the request. If the request for expedited processing is denied, the requester may file an appeal with the Office of General Counsel within ten days of the date of the denial by the Assistant Secretary. The Office of General Counsel will respond to the appeal within ten days after the date of the appeal.

[51 FR 26870, July 28, 1986, as amended at 52 FR 19307, May 22, 1987; 62 FR 17069, Apr. 9, 1997; 69 FR 67507, Nov. 18, 2004]

### § 145.8 Fees for records services.

A schedule of fees for record services, including locating, and making records available, and copying, appears in appendix B to this part 145. Copies of the schedule of fees may also be obtained upon request made in person, by telephone or by mail from the FOI, Privacy and Sunshine Acts compliance staff, Office of the Secretariat or at any regional office of the Commission.

(7 U.S.C. 4a(j) and 16a as amended by Pub. L. 97-444, 96 Stat. 2294 (1983), and 5 U.S.C. 552, 552a and 552b)

[41 FR 16290, Apr. 16, 1976, as amended at 49 FR 12684, Mar. 30, 1984]

### § 145.9 Petition for confidential treatment of information submitted to the Commission.

(a) *Purpose.* This section provides a procedure by which persons submitting information in any form to the Commission can request that the information not be disclosed pursuant to a request under the Freedom of Information Act, 5 U.S.C. 552. This section does